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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,430	05/05/2006	Kazumi Kodama	4829-0108PUS1	2819
2292 7590 10/06/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
CHIN, HUI H				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
10/06/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/578,430

Applicant(s)

KODAMA ET AL.

Examiner

HUI CHIN

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 6/4/2009.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/31/2009 has been entered.
2. The office action is in response to the Amendment, filed on 8/31/2009. Claims 1, 6, and 8 have been cancelled. Claims 2-5, 7, and 9 are now pending.
3. Rejections of claims 2 and 4-5 under 35 U.S.C. 102(b) as being anticipated by Osen et al. (US 2003/0144400), claims 2-3 under 35 U.S.C. 102(e) as being anticipated by Toya et al. (US 2007/0112141), claim 7 under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400), and claim 9 under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400) and further in view of Nile et al (US Patent 5,399,400) are withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4-5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400) in view of Nile et al. (US Patent 5,399,400).

Osen et al. disclose an aqueous elastomer coating composition to be used for dipping which contains a) a polymer latex composed of an elastomer such as fluorine rubber, hydrogenated or carboxylated acrylonitrile-butadiene rubber, acrylonitrile-butadiene rubber, and/or acrylate rubber, b) mineral fillers such as silicates/silicon oxides, silicic acids, pyrogenic silicic acids and/or carbonates, oxides, hydroxides, metal cations having a valence of 2 to 4, c) 1 to 6 phr of crosslinking chemicals such as amine-, peroxide-, bisphenol- or sulfur-based crosslinking systems including dibenzoyl peroxide, d) optionally dispersants and/or emulsifiers, organic and/or inorganic pigments, foam suppressants, anti-aging agents, heat sensitization agents, thickeners, wetting agents, propellants, foam stabilizers, coagulants, thixotropy agents, acid scavengers such as MgO, Ca(OH)₂, ZnO, PbO or hydrotalcite as well as adhesive agents, and e) water, preferably in demineralized form as a dispersion medium of the elastomer coating compositions ([0009] – [0014], [0028]).

The difference between the present claim and the disclosure of Osen et al. is the requirement of the composition to be made into glove.

Nile et al. disclose an elastomer to be subjected to dip process to make the glove (col. 3 lines 22-23). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the glove with the expected success because Nile et al. demonstrate that the dip process of the elastomer can be used to make the glove.

The limitations of claim 4 can be found in Osen et al. on page 2, [0028], where it discloses the composition contains 0-20 phr of ZnO.

The limitations of claim 5 can be found in Osen et al. on page 4, [0052], where it discloses the composition contains 0.3-9 phr of accelerator.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400) in view of Nile et al. (US Patent 5,399,400) as applied to claims 2, 4-5, 7, and 9 above, and further in view of Toya et al. (US 2007/0112141).

The disclosure of Osen et al. and Nile et al. is adequately set forth in paragraph 5 and is incorporated herein by reference.

The difference between the present claim and the disclosure of Osen et al. and Nile et al. is the requirement of specific sulfur.

Toya et al. disclose a rubber composition comprising: a copolymer rubber, a polymer selected from methyl acrylate and methyl methacrylate, and an ester compound wherein the rubber is a conjugated diene and the vulcanizing agent is sulfur-containing vulcanizers or organic peroxides such as benzoyl peroxide. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

produce a rubber composition with sulfur with the expected success. A conclusion can be made that the using of sulfur is equivalent or interchangeable with the using of peroxide in curing the polymer.

Response to Arguments

7. Applicants' arguments filed 8/31/2009 have been fully considered and are not persuasive.

Glove claim not rejected

Applicants had pointed out the claim 9 was not rejected in the Final Rejection dated May 29, 2009. Claim 9 was inadvertently omitted in the Office Action but the Office Action Summary (PTOL 326) did indicate the rejection of claim 9. Claim 9 was rejected together with claim 8 under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400) and further in view of Nile et al (US Patent 5,399,400).

Dibenzoyl peroxide

Applicants had stated ".... Therefore, Applicants' selection of dibenzoyl peroxide from among all of the peroxides taught by Osen unexpectedly provides beneficial properties. This would not have been obvious to a person of ordinary skill in the art at the time that Applicants' invention was made."

Attention is drawn to paragraphs [0017] and [0018] of Osen's disclosure. Paragraph [0017] shows a long list of crosslinking systems that are aminically, bisphenolically or peroxidically crosslinkable. However, paragraph [0018] shows the

examples of peroxide crosslinking chemicals that include six different peroxide compounds and this implies that Osen prefers using one of the six compounds for the invention. Thus, Osen did fairly teach the use of dibenzoyl peroxide and this would have been obvious to a person of ordinary skill in the art at the time that Applicants' invention was made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUI CHIN whose telephone number is (571)270-7350. The examiner can normally be reached on Monday to Friday; 8:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ling-Siu Choi/
Primary Examiner, Art Unit 1796

/HC/